

APPEAL #

### PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision dated January 30, 2013, finding the Appellant no longer eligible for income assistance under s. 16 of the Employment and Assistance Regulation (EAR) as she is enrolled as a full-time student in a funded program of studies.

### PART D – Relevant Legislation

The relevant legislation is the EAR sections 1 and 16.

## PART E – Summary of Facts

The Appellant is a single mother of a two-year-old child. She has been receiving income assistance for a number of years.

In October 2012, she began attending a 30-week Care Aide (Health Care Assistant) program (the "Program"). The Program ends in April 2013.

The Appellant also applied to StudentAid BC in the Ministry of Advanced Education for student assistance to attend the Program. In December 2012, StudentAid BC sent a Notification of Assessment to the Appellant notifying her that she was eligible to receive \$10,490 in assistance to attend the Program. This amount was apparently intended to cover the tuition and materials cost of the course and, in fact, \$9,090 of those funds were paid directly to the Program provider leaving the Appellant with \$1,400.

The Notification of Assessment contains the following statement:

"As an Income Assistance recipient, you are eligible to receive education costs only. Your living expenses will be covered by the BC Ministry of Social Development. Any grant funding issued by StudentAid BC that is greater than your educational costs may be deducted from your Income Assistance eligibility. Please discuss with your Employment and Assistance Worker."

On the strength of this statement, the Appellant considered that she would continue to qualify for income assistance while taking the Program. She therefore continued to submit her monthly application for income assistance and the Ministry continued to pay her until in January a Ministry worker noticed that she had marked her income assistance application as "going to school" and informed her that she no longer qualified for income assistance on that basis.

The Appellant then contacted StudentAid BC but was told that because her monthly expenses were too high and the length of the Program too short, she did not qualify for any further funding from them.

The Appellant explored a number of other avenues for funds including relatives and has currently made arrangements with her landlord to defer some of her rental costs.

The Appellant submitted a statement of expenses which indicates that without income assistance, she cannot meet her obligations.

## PART F – Reasons for Panel Decision

The decision under appeal is the reasonableness of the Ministry's reconsideration decision dated January 30, 2013, finding the Appellant no longer eligible for income assistance under section 16 of the EAR, as she is enrolled as a full-time student in a funded program of studies.

The relevant legislation is the EAR sections 1 and 16:

### **Effect of family unit including full-time student**

**16** (1) A family unit is not eligible for income assistance for the period described in subsection (2) if an applicant or a recipient is enrolled as a full-time student

- (a) in a funded program of studies, or
- (b) in an unfunded program of studies without the prior approval of the minister.

(2) The period referred to in subsection (1)

- (a) extends from the first day of the month following the month in which classes commence and continues until the last day of the month in which exams in the relevant program of studies are held, and
- (b) is not longer than one year.

Section 1 of the EAR defines a *funded program of studies* as "a program of studies for which student financial assistance may be provided to a student enrolled in it".

The Appellant's position is that, as StudentAid BC will not pay her living costs, the Ministry, as payer of last resort, should do so.

The Ministry's position is that section 16 applies to the Appellant and that they therefore have no choice but to find her ineligible for income assistance.

There is no question that the Appellant has been enrolled as a full-time student in a funded program of studies since October 2012, so that section 16 applies and the Appellant is not eligible to receive income assistance while she is enrolled in the Program (that is, November 2012 to April 2013).

The issue here is that there appears to be some confusion between StudentAid BC and the Ministry as to which is responsible to pay the Appellant's living costs while she is in a full-time education program. However, so far as the Ministry's responsibilities are concerned, as section 16 of the EAR clearly applies in this situation, there is no argument that the Appellant is not eligible for income assistance while she is enrolled in the Program.

The Appellant's position at the hearing was that the ministry is the 'payer of last resort' and, as she has no other source of funds, the ministry should meet its obligations to her in this instance. Unfortunately, while the ministry may be the payer of last resort, it is only so as defined by the legislation which governs the income assistance program.

Accordingly, the Panel must find that the Ministry's determination that the Appellant is not eligible to receive income assistance was a reasonable application of the applicable legislation.

Accordingly, the Panel confirms the Ministry's decision.